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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,060	07/31/2003	Weidan Wu	371/3	9971
27538	7590	06/28/2004	EXAMINER	
KAPLAN & GILMAN, L.L.P. 900 ROUTE 9 NORTH WOODBIDGE, NJ 07095			MORRISON, NASCHICA SANDERS	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/632,060

Applicant(s)

WU, WEIDAN

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply, and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

This is the first Office Action for serial number 10/632,060, Assembled Sunshade Base, filed on July 31, 2003. Claims 1-9 are pending.

***Specification***

The disclosure is objected to because of the following informalities: on page 2, line 16, insert --a-- after "connecting" and on line 20, insert --with-- after "communicating"; on page 3, line 1, insert --- after "through" and on line 5, "sausage like" should be --sausage-like--; regarding page 4: on line 2 insert --a-- after "shows"; on line 6 "contacts" should be --contact-- and insert --the-- before "ground"; on line 7 insert --a-- before "plurality"; on line 9 "detachably" should be --detachably--; on line 11 "to secure" should be --secures--; on line 17 delete "one" after "hard"; regarding page 5: on line 2 "cup" should be --cap--; on line 6 insert --version-- after "integral"; on line 13 delete "with" before "screw" and insert --to-- after "15"; on line 14 "forming" should be --form--; on page 8, on line 3 insert --a-- after "having" and after "form" and delete "being"; on line 6 "detachly" should be --detachably--, and on line 7 "is" should be --are-- and "." after "assembled" should be ---. Appropriate correction is required.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the

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"passage" in claim 6 must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: on line 1, delete "an" before "sunshade"; on line 3, "contacts" should be --is contactable--; on line 4 insert --a-- before "plurality"; on line 9 delete "joining together"; on line 13 "is" should be --and being--. Appropriate correction is required.

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Claim 2 is objected to because of the following informalities: on line 2 "exhibits" should be --exhibit-- and insert --are-- before "surrounded".

Appropriate correction is required.

Claim 3 is objected to because of the following informalities: on line 2 "which" should be --whose-- and insert --are-- before "surrounded". Appropriate correction is required.

Claim 4 is objected to because of the following informalities: on line 2, "as same" should be --the same--. Appropriate correction is required.

Claim 5 is objected to because of the following informalities: on line 1 "mean" should be --means--. Appropriate correction is required.

Claim 7 is objected to because of the following informalities: on line 1 delete "can"; on line 2 delete "the" before "said"; on line 3 "being" should be --are-- and "forming" should be --to form--. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: on line 3 "cup" should be --cap-- and delete "the" before "water"; on line 4 insert --to-- after "member"; on line 5 "passing" should be --pass--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the word "means" is preceded by the word(s) "ballast" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 1, line 10 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a peripheral wall" in claim 1, line 10 is intended to refer to "a peripheral wall" in claim 1, line 3.

Regarding claim 5, the phrase "sausage like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 8 recites the limitation "said cross-bar" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said container" in line 1 and "the ballast material" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5 and 7-9 are rejected under 35 U.S.C. 102(e) as anticipated by U.S. Patent Application Publication 2004/0056169 to Harbaugh. Harbaugh discloses a base comprising: a ground frame, joining together with a peripheral wall (40A-D) forming a plurality of cavities, which has two bars (10, 12) in a cross-intersected shape surrounded by the peripheral wall, the peripheral wall comprising four straight stripes (40A-D) and four arch shaped corner members (40) bonded together by screws (96, 98); an erecting tubular member (70) upright secured to the ground frame by a connecting means/plate (70); a ballast (100) comprising a plastic bladder filled with sand and accommodated within the cavities, the top of the bladder including a port (not shown), a sealing cap (104), and a through hole (102); and a cover (106) removably secured on the upper surface of the ballast.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harbaugh. Regarding claims 2 and 3, Harbaugh teaches the base as applied above, but does not teach the ground frame including three or four bars (10, 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the two bars of Harbaugh to be formed as four bars since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harbaugh in view of U.S. Patent 5,517,702 to Fraher. With regards to claim 4, Harbaugh discloses the base as applied above, but does not teach the ballast comprising a plurality of individual containers. Fraher discloses a ballast comprising a plurality of individual containers (480), each having a port (500) and cap (510). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the ballast of Harbaugh to be formed of individual containers because one would have been motivated to permit selective fulfillment of the ballast as needed as inherently taught by Fraher.



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Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harbaugh in view of Fraher and further in view of U.S. Patent 3,746,293 to Silvia. With regards to claim 6, Harbaugh in view of Fraher discloses the base as applied above, but does not teach the ballast containers including a connecting passage. Silva teaches a ballast (80) comprising a plurality of chambers (82A) including a connecting passage (col. 7, lines 28-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the individual containers of Fraher to be connected by a passage because one would have been motivated to permit simultaneous filling of the individual containers as inherently taught by Fraher.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: 1631227 to See; 3038688 to Thorburn; 3119588 to Keats; 3784136 to Lopez; 3794279 to Kramer; 4065171 to Nagy; 4591126 to Berney; 5354031 to Bilotti; 5451118 to Wilkins et al; 6435468 to Simchoni; 6446649 to Bigford; 6511033 to Li; 6557297 to Receveur

The above references disclose bases relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.



*Naschica S. Morrison*

Patent Examiner

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**6/21/04**



Korie Chan

Primary Examiner

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